

Appl. No. 10/603,973
Docket No. 9070MXL
Amdt. dated 7/21/06
Reply to Office Action mailed on 3/27/06
Customer No. 27752

REMARKS/ARGUMENTS

Claims 1-9, 14-57 and New Claims 58-60 are now under consideration.

All claims now employ the terminology suggested by the Examiner, as discussed hereinafter with respect to the §112 rejections.

Basis for the New Claims 58-60 is found at page 6, paragraph 3 and page 8, paragraphs 3 and 4.

It is submitted that all amendments are fully supported, and entry is requested.

Rejections Under 35 USC 112

Claims 15-24, 33-39 and 50-57 stand rejected under §112 in the use of the terms “reduced” and “conventionally processed,” per the Office Action at pages 4-6.

The Examiner’s thorough exposition of this point is acknowledged. For the record, it is noted that the CAFC does, in fact, encourage the use of “Markman-type” analysis of the meaning of claim terminology, for the purpose of determining patentability. Accordingly, previous arguments on this point are preserved, in the event Appeal proves necessary.

However, in order to move these proceedings forward, the claims (as well as the New Claims presented herewith) now employ the language suggested by the Examiner at page 6 of the Office Action. Indeed, the Examiner’s helpful suggestion in this regard is also acknowledged.

Rejections Under 35 USC 103

Claims 1-9 and 14-57 stand rejected over US 2004/0058054, for reasons of record at page 7 of the Office Action.

Applicants respectfully traverse all rejections and, in particular, to the extent such rejections may be applied to New Claims 58-60.

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Arguments in support of patentability made previously continue to apply, but will not be repeated herein. However, Claims 1-9 and 14-57 are preserved for Interference purposes, as may be appropriate.

The Examiner's attention is directed to New Claims 58-60, which recite the preferred modes of conducting the present method. It is respectfully submitted that the claim elements which define these modes are nowhere taught in the cited US 2004 document.

Indeed, it is submitted that US 2004 is remarkably silent regarding the details of the mode of treatment of the beans to inactivate/remove the asparagine.

At [0011] asparaginase is suggested. Leaching is separately suggested. Fermentation is suggested as another possibility, as is incorporation into proteins or by the addition of divalent salts.

No suggestion (or even recognition) is made of the need to remove the asparagine, but to return the other, desirable extractables to the beans.

Certainly, no suggestion is made of leaching into a dominant bath to achieve equilibrium, and then driving the asparagine extraction from the beans forward by removing it from the bath enzymatically, while retaining the other extractables in the beans.

In short, it is submitted that the method elements which serve to define the invention of New Claims 58-60 are nowhere suggested by US 2004. Accordingly, it is submitted that these New Claims are patentable over US 2004 in the sense of 35 USC 103.

Interference

The suggestion to declare an Interference as between Claims 1-9 and 14-57 and the cited document is maintained.

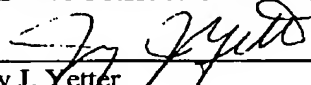
In light of the foregoing, early and favorable action in the case is requested.

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Respectfully submitted,

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